

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOA K. POON and U.S. POSTAL SERVICE,
POST OFFICE, San Jose, CA

*Docket No. 99-1005; Submitted on the Record;
Issued June 7, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant had no loss of wage-earning capacity on or after January 6, 1996 as a result of her April 28, 1994 employment-related injury.

The Board has given careful consideration to the issue involved, appellant's contentions on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated October 9, 1998 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ To determine a loss of wage-earning capacity of an employee, the Office divides the amount of earnings an injured employee currently receives by the current earnings of his or her date-of-injury position. 20 C.F.R. § 10.303(b); *Donald R. Johnson*, 48 ECAB 455, 458 (1997). Overtime pay may not be taken into account in determining the rate of pay for compensation purposes. 5 U.S.C. § 8114(e)(1); *Robert D. Clark*, 48 ECAB 422, 427 (1997). Furthermore, termination of employment for cause does not constitute a compensable disability for work under the Federal Employees' Compensation Act. *John W. Normand*, 39 ECAB 1378, 1381 (1988).

The decision of the Office of Workers' Compensation Programs dated October 9, 1998 is, hereby, affirmed.

Dated, Washington, D.C.
June 7, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member